



Illinois Department of Financial and Professional Regulation

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Statement Regarding Computer Forensics July 12, 2010

The Department has received a number of inquiries about whether persons or firms engaging in the practice of computer forensics are required to be licensed as private detectives or private detective agencies under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 (the "Act") (225 ILCS 447). While the Department does not issue "advisory opinions" or dispense legal advice, the public's interest in this subject merits this statement from the Department. Parties seeking a legal opinion should consult with their own attorney.

Computer forensics is a branch of forensic science pertaining to legal evidence found in computers and digital storage media. Section 5-10 of the Act, in pertinent part, defines "private detective" as:

Any person who by any means, including but not limited to manual or electronic methods. . . agrees to make or makes investigations for a fee or other consideration to obtain information relating to. . . [t]he identity, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person, firm, or other entity by any means, manual or electronic.

The Act goes on to require applicants to work full-time for a minimum of three years for a licensed private detective agency or for an attorney or law enforcement agency as a full-time investigator.

The definition of "private detective" can be interpreted to include computer forensic investigations. However, the Department recognizes that some persons or firms solely engaged in the practice of computer forensics that do not practice or offer "traditional" private detective services have not acquired the statutorily required experience to qualify for a license as a private detective. Requiring them to obtain such experience would effectively put them out of business. When the Act was written, computer forensics was not contemplated. Technology has simply moved ahead of the statutory language.

In fairness to the persons and firms currently engaging in the practice of computer forensics, to consumers desiring these services, and to the public, the Department will not require such persons or firms to obtain a private detective or private detective agency license to lawfully operate in the State of Illinois until such time as the legislature can consider and pass amendatory language to the Act to address this issue.

The Department reserves the right to reconsider and revise this statement should the Department receive evidence that the protection of the public interest warrants a different course of action.